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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5164 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BECLAWAT OF INDIA LTD

Versus

J.A. GOR

Appearance:

1. Special Civil Application No. 5164 of 1989
Mr. Nayak for M/S TRIVEDI & GUPTA
for Petitioner No. 1
..... for Respondent No. 1-27

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 10/01/2005

ORAL JUDGEMENT

Heard learned advocate Mr. Nayak for M/s.

Trivedi & Gupta for the petitioner. Notice of rule issued by this court has been served upon the respondents but no one has appeared before this court either in person or through any advocate. However, considering the fact that it is a matter of 1989 challenging the interlocutory order made by the labour court, the matter is taken up for final hearing in absence of the respondents.

In the present petition, the petitioner has challenged the interlocutory order made by the labour court, Nadiad below Exh. 41 in Reference No. 29 of 1985 dated 11th July, 1989 wherein the labour court has directed the petitioner to produce certain relevant documents which were demanded by the respondents workmen. This Court passed following order on 30th August, 1989:

"Rule returnable on 18.9.1989. Ad.interim stay of the impugned order, Annexure "A" below Exh. 41 in Reference LCN No. 29 of 1985 on condition that the petitioner will produce before the Labour Court the documents listed at Annexure "C" dated 4.1.1988 at Serial No. 2, Serial No.7 and Serial No. 8. These documents will be produced by the petitioner in the Labour Court within two weeks from today. The stay will operate against the rest of the documents listed at Items No. 1,3,4,5,6 and 9 in the said application dated 4.1.1988, Annexure "C"".

In view of the ad.interim order made by this Court, petitioner has produced documents listed at Annexure C dated 4.1.1988 at Sr. No. 2,7 and 8 and has granted stay against the rest of the documents listed at Items No. 1,3,4,5,6 and 9 in the said application dated 4.1.1988, Annexure "C". Thus, it is clear that no stay was granted by this Court against the further proceedings of Reference No.29 of 1985.

Learned advocate Mr. Nayak has submitted that the labour court has committed gross error in granting the application Exh. 41. He also submits that these are not the relevant documents for adjudication of the issue in question and yet without application of mind, the labour court directed the petitioner to produce certain documents which are not at all relevant for deciding the matter at issue. He also submitted that while examining the question of legality, validity and propriety of the retrenchment, these are not the relevant documents and, therefore, labour court ought to have rejected the application Exh. 41 and ought not to have directed the

petitioner to produce such documents.

I have considered the submissions made by the learned advocate Mr. Nayak. I have also perused the order made by the labour court below Exh. 41. The labour court has considered the demand of the respondent workman in respect of the documents in light of the dispute required to be adjudicated by the labour court. The labour court was of the view that these are the material documents. In support of its conclusion, the labour court has also given reasons that these are the relevant documents because it was the defence of the company that the financial condition of the company is not good. Considering such defence of the company, the labour court granted application Exh. 41 for production of certain documents before the labour court.

According to me, after perusal of the order in question, the labour court is justified in passing such an order to direct the petitioner to produce certain documents which are relevant and necessary for deciding or adjudicating the issue in question. Labour Court is having jurisdiction to pass such order as per section 11 of the Industrial Disputes Act, 1947. Learned advocate Mr. Nayak has not been able to point out any jurisdictional error, irregularity, illegality or infirmity in the order in question. He has also not been able to point out as to what prejudice is going to be caused to the company by production of such documents. Therefore, according to my opinion, labour court has not committed any error which would require interference of this Court in exercise of the powers under Article 227 of the Constitution of India.

Other factor is also that normally, while exercising extraordinary powers under Article 227 of the Constitution of India, this Court should not entertain the petition which is challenging the interim or interlocutory order of the labour court. Admittedly, the order in question made by the labour court below Exh. 41 is interlocutory in nature, therefore, petition against such an order cannot be entertained. An important fact is also required to be taken into consideration that while issuing rule in this matter, this Court has not granted any stay against further proceedings of Reference No. 29 of 1985, therefore, during the pendency of this petition, about more than fifteen years have passed and, therefore, by now, reference must have been adjudicated and disposed of by the labour court.

In view of these facts, according to my opinion,

there is no substance in the petition and the same is required to be dismissed. Accordingly this petition is dismissed. Rule is discharged. Interim relief granted earlier shall stand vacated. There shall be no order as to costs.

(H.K. Rathod,J.)

Vyas